Appl. No. 09/866,226
Amdt. sent November 29, 2005
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 2157

PATENT

REMARKS/ARGUMENTS

Claims 1-16 are pending.

Claims 1, 3, 5, 7, 9, 11, 13, and 15 were rejected under 35 U.S.C. § 112, Second paragraph.

Claims 1, 2, 4, 6, 8, 9, 10, 12, 14, and 16 were rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Glenn II et al., U.S. Patent No. 5,852,724.

Claims 3, 5, 7, 11, 13, and 15 rejected under 35 U.S.C. § 103(a) as being unpatentable over Glenn II et al., U.S. Patent No. 5,852,724 in view of Yanai et al., U.S. Patent No. 5,544,347.

Section 112 Rejection

Claims 1, 3, 5, 7, 9, 11, 13, and 15 have been amended to recite that the second information processing system takes over <u>information and data</u> processing performed by the first computer system. The added language clearly recites the kind of processing that is performed by the first information processing system. The Section 112 rejection is believed to be overcome.

Section 102 Rejection of Claims 1, 2, 4, 6, 8, 9, 10, 12, 14, and 16

1.   Glenn does not show "the same data is duplicated"

The pending claims are directed to a first system and a second system, each comprising respective first and storage devices, where data is duplicated between the first storage device and the second storage device. For example, claim 1 recites among other things, "a first information processing system comprised of a first host computer and a first storage device," "at least one second information processing system comprised of a second host computer and a second storage device," and "the same data is duplicated in said first and second information processing systems." See also independent claim 9.

Glenn does not show this combination of recited limitations. Glenn shows in Fig. 1 a primary server (102) and a secondary server (104). However, Glenn does not show or suggest a primary server comprising a first storage device and a secondary server comprising a

second storage device. Instead, Glenn shows a storage (106) that is accessible by the primary server (102) <u>and</u> by the secondary server (104). There is no "first storage device" and "second storage device" since there is only one storage device that is shared by the primary and secondary servers.

It is noted that Glenn does show a another storage (120). However, this storage is accessed by another primary server (118) and by the secondary server (104). There is disclosure or suggestion that the primary server (102) and the primary server (118) are related in terms of data sharing. Therefore, even though Fig. 1 of Glenn shows storage (106) and storage (120), Glenn does not disclose or suggest "the same data is duplicated in said first and second information processing systems."

It is fundamental that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *MPEP §2131, citing <u>Verdegaal Bros. v. Union Oil Co. of California</u>, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).* The Glenn reference does not show a first storage device in a first information processing system and a second storage device in a second information processing system where "the same data is duplicated in said first and second information processing systems." For at least this reason, the examiner has not established anticipation by Glenn. The Section 102 rejection of independent claims 1 and 9 is therefore overcome. Dependent claims 2, 4, 6, 8, 10, 12, 14, and 16 are likewise patentable over Glenn for at least the reason that they are dependent on claim 1 or claim 9.

2.   **Glenn does not show "copying first update data generated in said first information processing system to said second information processing system"**

Claim 1 recites data is duplicated "by copying first update data generated in said first information processing system to said second information processing system." Glenn shows a configuration where a primary server (102) and a secondary server (104) are both connected to storage (106). Glenn shows another configuration where a primary server (118) and a secondary server (104) are both connected to storage (120). Glenn does not show or suggest, however, that

there is "copying first update data generated in said first information processing system to said second information processing system." There is no copying of data between storage (106) and storage (120) in the Glenn reference. For at least this reason, the examiner has not established anticipation by Glenn and the Section 102 rejection of independent claims 1 and 9 is therefore overcome. Dependent claims 2, 4, 6, 8, 10, 12, 14, and 16 are likewise patentable over Glenn for at least the reason that they are dependent on claim 1 or claim 9.

3.   **Glenn does not show "difference control information for identifying second update data generated in said second information processing system"**

The examiner cited the Summary section of Glenn and column 9, lines 15-61 for allegedly teaching this limitation. A careful review of the Summary section does not reveal any teaching of "difference control information for identifying second update data generated in said second information processing system." There is no specific discussion in the Summary section that teaches this recited limitation.

A review of column 9, lines 15-61 likewise does not reveal any teaching of "difference control information for identifying second update data generated in said second information processing system." The cited text describes the steps in Fig. 9. Applicants have identified steps such as "monitors the status" (line 18), "activates a stop script" (line 25), "forces ... server to shut down" (lines 28-29), "registers each service" (line 31), "prevents duplicate service" (line 36), "permits ... service to start" (line 39-40), "restoring a service" (line 42), and "activates a stop script" (line 49). However, none of these steps relate to "difference control information for identifying second update data generated in said second information processing system."

For at least this reason, the examiner has not established anticipation by Glenn and the Section 102 rejection of independent claims 1 and 9 is therefore overcome. Dependent claims 2, 4, 6, 8, 10, 12, 14, and 16 are likewise patentable over Glenn for at least the reason that they are dependent on claim 1 or claim 9.

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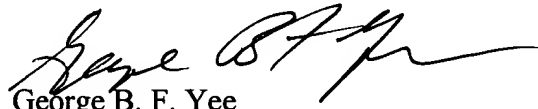## Section 103 Rejection of Claims 3, 5, 7, 11, 13, and 15

A *prima facie* case of obviousness requires that all the claim limitations be taught or suggested by the prior art. *MPEP §2143.03, citing In re Royka*, 490 F.2d 981, 180 USPQ 580 *(CCPA 1974)*. As to the Section 103 rejection, to the extent that Glenn was relied on for showing the foregoing limitations in the examiner's section 103 rejection of claims 3, 5, 7, 11, 13, and 15, then the examiner has failed to show that all the claim limitations are taught or suggested by the prior art for the reasons set forth above.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

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